

FILED

April 17, 2003

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE LICENSE OF

Administrative Action

JOHN PAYNE, D.O.
License No: MB38343

FINAL ORDER
OF DISCIPLINE

TO PRACTICE MEDICINE AND SURGERY :
IN THE STATE OF NEW JERSEY

:

This matter was opened to the New Jersey State Board of Medical Examiners upon receipt of information which the Board has reviewed and on which the following preliminary findings of fact and conclusions of law are made;

FINDINGS OF FACT

1. On or about September 7, 2001 Respondent entered into an Agreed Order with the Texas Board of Medical Examiners ("The Texas Board"). The Texas Board determined that Respondent had engaged in unprofessional conduct that is likely to deceive or defraud the public or injure the public by failing to disclose to the Board on

CERTIFIED TRUE COPY

his Medical Practice Questionnaire that he was the subject of hospital disciplinary action in May 1999.

2. More specifically, the Agreed Order stated that effective May 7, 1999, Respondent had been the subject of disciplinary action at Plaza Medical Center of Fort Worth. The agreed Order further stated that on May 28, 1987 Respondent was also the subject of a disciplinary action by Harris Methodist H.E. B.

3. The Agreed Order further stated that Respondent answered "No" to question 4 when he completed his Medical Practice Questionnaire dated August 17, 1999 which states, "Have you ever had your medical privileges monitored, revoked, suspended, limited or denied by any organization, health care facility, or excluded from participation in any federal or state reimbursement program?"

4. On August 10, 2001, Respondent voluntarily signed the Agreed Order which was entered by the Texas Board on September 7, 2001, The Agreed Order provided for the payment of an administrative penalty in the amount of one thousand dollars within ninety (90) days of the signing of the Order by the presiding officer of the Board.

5. Thereafter, on or about December 7, 2001, Respondent entered into a second Agreed Order for failing to report to North Hills Hospital the May 7, 1999 disciplinary action taken by Plaza Medical Center of Fort Worth at the time the action was taken.

6. The Texas Board also found that on or about June 22, 1999 Respondent did not report the disciplinary action taken at Plaza Medical Center when asked on his reappointment application if his privileges had been "suspended, diminished, revoked, not renewed, voluntary or involuntary relinquished or allowed to lapse" at any hospital.

7. Respondent stated that at the time he answered the question he believed he answered the inquiry question correctly. He stated that he did not think the actions taken at Plaza Medical Center fell within the scope of the inquiry.

8. As a result, there was an investigation by the Medical Executive Committee of North Hills Hospital. Based on the investigation the Committee recommended the revocation of Respondent's medical staff membership and privileges. The Hospital Board of Trustees approved that recommendation.

9. As a consequence, on November 15, 2001 Respondent voluntarily signed a second Agreed Order which was entered by the Texas Board on December 7, 2001 requiring Respondent to pay an administrative penalty in the amount of one thousand dollars within ninety (90) days of the signing of the Order by the presiding officer of the Texas Board.

CONCLUSIONS OF LAW

The **above-described** Texas action **provides** grounds to take disciplinary action against Respondent's license to practice medicine and surgery in New Jersey because the Texas Board made findings of conduct which **would** be violative of **New Jersey** law pursuant to N.J.S.A. 1-21(b) and (e). Furthermore, the **Agreement constitutes** an admission of the conduct in **that his** consent to these findings is tantamount to an admission.

DISCUSSION ON FINALIZATION

Based on **the** foregoing **findings** and conclusions, a Provisional Order of **Discipline** ("POD") was **entered by** this Board on March 22, 2002, and **served** upon Respondent. The POD was subject to finalization by the Board at 5:00 PM on the 30th **business** day following entry unless Respondent **requested** a modification or dismissal of the stated Findings of Fact or Conclusions of Law **by** submitting **a written** request for modification or dismissal **setting** forth in writing any and all reasons why said findings and conclusions **should be** modified or dismissed and submitting any and all **documents** or **other** written **evidence supporting** Respondent's request for consideration and reasons **therefor**.

Respondent submitted a response **dated** April 1, 2002, wherein he requested a dismissal of the Findings of Fact contained in **the** **Provisional** Order. Respondent **did not** dispute **the** Board's findings

that he had been subject to disciplinary action by Plaza Medical center of Forth Worth on May 7, 1999 and by Harris Methodist H.E.B. on May 28, 1997. However, Respondent provided explanation that in both matters he was exonerated of wrongdoing after an investigation by the Texas Board. Respondent also acknowledged that he received a \$1000 administrative fine because he neglected to record the Harris Methodist H.E.B. case on State forms. Respondent stated that this omission was a mere technicality, and unintentional as the Texas Board already knew about the action but imposed a fine to maintain its position requiring full disclosure.

Regarding the revocation of his privileges at Plaza Medical Center in Fort Worth, Respondent stated that he was suddenly notified that he would be required to have 12 consults or second opinions to continue on staff at that location. In light of this new requirement, Respondent decided to quit and rely on the State to investigate and exonerate him.

Regarding his termination from North Hills Hospital, respondent stated that he was the recipient of unfair and malicious treatment, and that many of the physicians at Harris Methodist H.E.B. are on staff at North Hills Hospital and that this may have been a factor contributing to his poor reputation at that hospital.

Respondent's submissions were reviewed by the Board and the Board determined that further proceedings were not necessary as no material discrepancies had been raised. The Board was unpersuaded

by Respondent's arguments that he had been unfairly treated and that the Texas Board had exonerated him of wrongdoing with regard to his disciplinary actions at the two hospitals. The Board found that Respondent's failure to disclose disciplinary action to the Texas Board on the Medical Practice Questionnaire, as well as to North Hills Hospital was sufficient grounds for the Board to reprimand Respondent pursuant to N.J.S.A. 45:1-21(b) and (e). Moreover, pursuant to N.J.S.A. 45:9-19.16 and N.J.A.C. 13:35-6.19(c)2,3, Respondent was required to notify the New Jersey Board of Medical Examiners of action taken against his license by any other state licensing board and any action affecting his privilege to practice by any out of state hospital. As such, the Board found that there was sufficient grounds to reprimand Respondent for his failure to disclose the disciplinary actions as discussed herein.

ACCORDINGLY, IT IS on this 17th day of April, 2003
ORDERED that:

1. Respondent be and hereby is reprimanded.
2. Prior to resuming active practice in New Jersey, Respondent shall be required to appear before the Board (or a committee thereof) to demonstrate fitness to resume practice, and any practice in this State prior to said appearance shall constitute grounds for a charge of unlicensed practice. In addition, the board reserves the right to place restrictions on Respondent's practice should his license be reinstated.

NEW JERSEY STATE BOARD OF
MEDICAL EXAMINERS

William Harrer MD BLD

By:

William V. Harrer, M.D., B.L.D.
Board President

IN THE MATTER OF
THE LICENSE OF
JOHN B. PAYNE, D.O.

H-5943

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BEFORE THE
TEXAS STATE BOARD
OF MEDICAL EXAMINERS

AGREED ORDER

On this the 7th day of December, 2001, came on to be heard before the Texas State Board of Medical Examiners ("the Board" or "the Texas Board"), duly in session the matter of the license of John B. Payne, D.O. ("Respondent"). On October 26, 2001, Respondent appeared in person with counsel, Jeffrey Grass, at an Informal Settlement Conference/Show Compliance Proceeding in response to a letter of invitation from the staff of the Board. Mari Robinson represented Board Staff.

The Board was represented at the Informal Settlement Conference/Show Compliance Proceeding by Lee S. Anderson, M.D., a member of the Board, and Larry Price, D.O., a member of the Board. Upon recommendation of the Board's representatives, and with the consent of Respondent, the Board makes the following findings of fact and conclusions of law and enters this Order as set forth herein:

FINDINGS OF FACT

1. Respondent, John B. Payne, D.O., holds Texas medical license H-5943.
2. The Board has jurisdiction over the subject matter and Respondent. Respondent received all notice that may be required by law and by the rules of the Board. All jurisdictional requirements have been satisfied under TEX. OCC. CODE ANN. Subtitle B (Vernon 2000) (hereinafter the "Act").
3. By entering into this agreed order, Respondent waives any defect in the notice and any further right to notice and hearing under the Act, TEX. GOV'T CODE ANN. §§2001.051 - .054, and the Rules of the State Board of Medical Examiners.
4. Respondent is fifty-four (54) years of age.
5. Respondent is a board certified neurosurgeon.
6. Respondent was subject to a disciplinary action at Plaza Medical Center of Ft. Worth effective May 7, 1999.

7. Respondent failed to report this action to North Hills Hospital at the time this action was taken.

8. Additionally, on his June 22, 1999 Reappointment Application to North Hills Hospital, Respondent was asked if his privileges had been "suspended, diminished, revoked, not renewed, voluntary or involuntary relinquished or allowed to lapse" at any hospital. The Respondent did not report the action at Plaza Medical Center.

9. The Medical Executive Committee of North Hills Hospital investigated this matter and based on its investigation recommended that the Respondent's medical staff membership and privileges be revoked. This recommendation was approved by the Board of Trustees.

10. The Respondent states that at the time he answered the inquiry in question, he believed that he answered it correctly. He did not think that the actions taken at Plaza Medical Center fell within the scope of the inquiry.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Board concludes the following:

1. Respondent is subject to disciplinary action pursuant to Section 164.051(a)(7) of the Act by being removed, suspended, or subject to disciplinary action taken by Respondent's peers in a local, regional, state or national professional medical association or society; or is disciplined by a licensed hospital or medical staff of a hospital, including removal, suspension, limitation of hospital privileges, or other disciplinary action.

2. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.

3. Sections 165.001 and 165.003 of the Act authorize the Board to impose a monetary administrative penalty not to exceed five thousand dollars (\$5,000.00) for each separate violation of the Act or Board rule by a person licensed or regulated under the Act.

4. Section 164.002(d) of the Act provides that this Agreed Order is a settlement agreement under the Texas Ruled of Evidence for purposes of civil litigation.

ORDER

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that:

1. Respondent shall pay an administrative penalty in the amount of one thousand dollars (\$1000.00) within ninety (90) days of the signing of this Order by the presiding officer of the Board.

2. The administrative penalty shall be paid in a single payment by cashier's check or money order payable to the Texas State Board of Medical Examiners and shall be submitted to the Director of Compliance for the Board for routing so as to be remitted to the Comptroller of Texas for deposit in the general revenue fund.

3. Respondent's failure to pay the administrative penalty as ordered shall constitute unprofessional and dishonorable conduct that is likely to deceive or defraud the public and shall constitute grounds for further disciplinary action by the Board as provided for in the Act, and may result in a referral by the Executive Director of the Board for collection by the Office of the Attorney General.

4. Respondent shall comply with all the provisions of the Act and other statutes regulating the Respondent's practice.

5. Respondent shall inform the Board in writing of any change of Respondent's office or mailing address within ten (10) days of the address change. This information shall be submitted to the Verification Department and the Director of Compliance for the Board. Failure to provide such information in a timely manner shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.

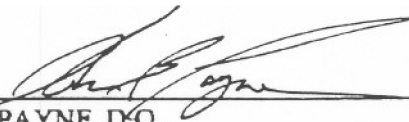
6. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, and to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.

I, JOHN B. PAYNE, D.O., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 11/15, 2001.




JOHN B. PAYNE, D.O.
RESPONDENT

STATE OF Texas §
COUNTY OF Tarrant §
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BEFORE ME, the undersigned Notary Public, on this day personally appeared JOHN B. PAYNE, D.O., known to me to be the person whose name is subscribed to this instrument, an Agreed Order, and who after being by me duly sworn, on oath, stated that he executed the same for all purposes expressed therein.

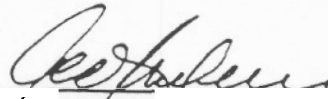
Given under my hand and official seal and office this 15th day of November, 2001.





Signature of Notary Public
Ellen Jean Wallace
Printed or typed name of Notary Public
My commission expires: _____

SIGNED AND ENTERED by the presiding officer of the Texas State Board of Medical
Examiners on this 7th day of December, 2001.



Lee S. Anderson, President
Texas State Board of Medical Examiners

IN THE MATTER OF
THE LICENSE OF
JOHN B. PAYNE, D.O.

H-5943

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BEFORE THE
TEXAS STATE BOARD
OF MEDICAL EXAMINERS

AGREED ORDER

On this the 7th day of September, 2001, came on to be heard before the Texas State Board of Medical Examiners ("the Board" or "the Texas Board"), duly in session the matter of the license of John B. Payne, D.O. ("Respondent"). On June 21, 2001, Respondent appeared in person with counsel, Jeffrey Grass, at an Informal Settlement Conference/Show Compliance Proceeding in response to a letter of invitation from the staff of the Board. Mari Robinson represented Board Staff.

The Board was represented at the Informal Settlement Conference/Show Compliance Proceeding by Peter Chang, M.D., a member of the Board, and Buddy Siebenlist, M.D., a District Review Committee member. Upon recommendation of the Board's representatives, and with the consent of Respondent, the Board makes the following findings of fact and conclusions of law and enters this order as set forth herein:

FINDINGS OF FACT

1. Respondent, John B. Payne, D.O., holds Texas medical license H-5943.
2. The Board has jurisdiction over the subject matter and Respondent. Respondent received all notice that may be required by law and by the rules of the Board. All jurisdictional requirements have been satisfied under TEX. OCC. CODE ANN. Subtitle B (Vernon 2000) (hereinafter the "Act").
3. By entering into this agreed order, Respondent waives any defect in the notice and any further right to notice and hearing under the Act, TEX. GOV'T CODE ANN. §§2001.051 - .054, and the Rules of the State Board of Medical Examiners.
4. Respondent is fifty-four (54) years of age.
5. Respondent is a board certified neurosurgeon.
6. Respondent was subject to a disciplinary action at Plaza Medical Center of Ft. Worth effective May 7, 1999.

7. Respondent was the subject of discipline action by Harris Methodist H.E.B. on May 28, 1997.

8. Respondent answered "No" to question number 4 on his Medical Practice Questionnaire dated August 17, 1999, which states "Have you ever had your medical privileges monitored, revoked, suspended, limited or denied by any organization, health care facility, or excluded from participation in any Federal or State reimbursement program?"

9. After being questioned by the Board on this matter, Respondent submitted a corrected Medical Practice Questionnaire on April 17, 2000.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Board concludes the following:

1. Respondent is subject to disciplinary action pursuant to Section 164.051(a)(1) of the Act based on Respondent's commission of an act prohibited under Section 164.052 of the Act. Specifically, Respondent has committed a prohibited act or practice within the meaning of, Section 164.052(a)(5) of the Act based upon unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public.

2. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed order.

3. Sections 165.001 and 165.003 of the Act authorize the Board to impose a monetary administrative penalty not to exceed five thousand dollars (\$5,000.00) for each separate violation of the Act or Board rule by a person licensed or regulated under the Act.

4. Section 164.002(d) of the Act provides that this Agreed Order is a settlement agreement under the Texas Rules of Evidence for purposes of civil litigation.

ORDER

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that

1. Respondent shall pay an administrative penalty in the amount of one thousand dollars (\$1000.00) within ninety (90) days of the signing of this Order by the presiding officer of the Board.

2. The administrative penalty shall be paid in a single payment by cashier's check or money order payable to the Texas State Board of Medical Examiners and shall be submitted to

the Director of Compliance for the Board for muting so as to be remitted to the Comptroller of Texas for deposit in the general revenue fund.

3. Respondent's failure to pay the administrative penalty as ordered shall constitute unprofessional and dishonorable conduct that is likely to deceive or defraud the public and shall constitute grounds for further disciplinary action by the Board as provided for in the Act, and may result in a referral by the Executive Director of the Board for collection by the Office of the Attorney General.

4. Respondent shall comply With all the provisions of the Act and other statutes regulating the Respondent's practice.

5. Respondent shall inform the Board in writing of any change of Respondent's office or mailing address within ten (10) days of the address change. This information shall be submitted to the Verification Department and the Director of Compliance for the board. Failure to provide such information in a timely manner shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.

6. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, and to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.


THIS ORDER IS A PUBLIC RECORD.

I, JOHN B. PAYNE, D.O., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: August 10, 2001.

ID # 315655

AUG 13 2001

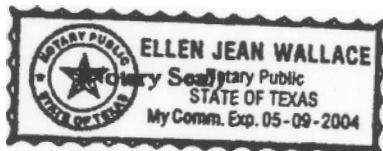

JOHN B. PAYNE, D.O.
RESPONDENT

STATE OF Texas
COUNTY OF Tarrant

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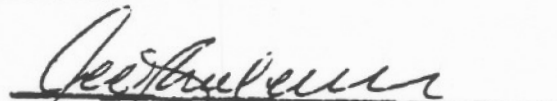
BEFORE ME, the undersigned Notary Public, on this day personally appeared JOHN B. PAYNE, D.O., known to me to be the person whose name is subscribed to this instrument, an Agreed Order, and who after being by me duly sworn, on oath, stated that he executed the same for all purposes expressed therein.

Given under my hand and official seal and office this 10th day of August, 2001.



Ellen Jean Wallace
Signature of Notary Public
Ellen Jean Wallace
Printed or typed name of Notary Public
My commission expires: _____

SIGNED AND ENTERED by the presiding officer of the Texas State Board of Medical Examiners on this 7th day of September, 2001.


Lee S. Anderson, President
Texas State Board of Medical Examiners